

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
SALVADOR MARTINEZ-TORRES,)
Defendant.)
Criminal Action No. 06-31-JJF

MOTION FOR PSYCHIATRIC EXAMINATION OF DEFENDANT

Plaintiff, the United States of America, respectfully moves this Court, pursuant to 18 U.S.C. § 4241 and § 4247(b) and (c) for an Order directing that Salvador Martinez-Torres, the defendant, be committed to the custody of the Attorney General for placement in a federal institution so that a psychiatric examination of him be conducted and that a report be filed with the Court concerning whether he is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

In support of this motion, the Government states the following:

1. On March 28, 2006, the defendant was indicted in the District of Delaware on charges including conspiracy to distribute 5 kilograms of cocaine. The defendant has remained a pre-trial detainee since indictment.
2. On December 21, 2006, on the defendant's motion, the District Court continued indefinitely a hearing on the defendant's motion to suppress, whereas defense counsel represented that a defense expert was performing a psychiatric examination of the defendant. D.I. 68.

3. By letter of February 21, 2007, defense counsel submitted a letter to the Court advising that a psychologist retained by the defendant performed an evaluation of the defendant and found him currently not competent to stand trial. Defense counsel requested that the Court schedule a competency hearing. D.I. 75. On March 8, 2007, the Court scheduled a competency hearing for March 19, 2007. D.I. 78.

4. By letter of February 27, 2007, the Government advised the Court that the United States had no objection to the defendant's request that the Court schedule a competency hearing. D.I. 76. However, the Government now requests that the competency hearing be postponed until the defendant is examined by BOP experts.

WHEREFORE, the Government respectfully requests that the Court continue the competency hearing, and issue an Order pursuant to 18 U.S.C. § 4241 and § 4247(b) and (c) that Salvador Martinez-Torres, the defendant, be committed to the custody of the Attorney General for placement in a suitable, federal facility for a period not to exceed 30 days from the defendant's arrival at the facility for the purpose of having a psychiatric examination and evaluation to aid the determination of his competency to stand trial.

COLM F. CONNOLLY
United States Attorney

By:

Edmond Falgowski
Assistant United States Attorney

Dated: 3-9-07

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ORDER

Having considered the Motion for Psychiatric Examination of defendant filed by the United States of America, it is hereby

ORDERED that the competency hearing is continued, and pursuant to 18 U.S.C. §§ 4241 and 4247(b) and (c), defendant Salvador Martinez-Torres shall forthwith be committed to the custody of the Attorney General for placement in a suitable federal facility for a period not to exceed thirty (30) days from the defendant's arrival at the facility for the purpose of having a psychiatric examination and evaluation to aid the determination of his competency to stand trial.

IT IS FURTHER ORDERED that a psychiatric report be prepared by the examiner and that a report be filed with the Court. The report shall include the following:

1. Salvador Martinez-Torres' history and present symptoms;
2. A description of the psychiatric, psychological, and medical tests that were employed and their results;
3. The examiner's findings; and

4. The examiner's opinion as to diagnosis, prognosis, and whether Salvador Martinez-Torres is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

Honorable Joseph J. Farnan, Jr.
United States District Court Judge

March ___, 2007
Wilmington, Delaware

CERTIFICATE OF SERVICE

I, Theresa A. Jordan, an employee with the United States Attorney's Office, hereby certify that on March 9, 2007, electronically filed the foregoing:

MOTION FOR PSYCHIATRIC EXAMINATION OF DEFENDANT

with the Clerk of the Court using the CM/ECF which will send notification of such filing to:

Christopher S. Koyste, Esquire
Assistant Federal Public Defender
704 King Street, Suite 110
Wilmington, Delaware 19801

Theresa A. Jordan